

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1582-02
Bill No.: HB 679
Subject: Children and Minors; Domestic Relations; Family Services Division
Type: Original
Date: March 18, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General	(\$83,682,414)	(\$94,338,185)	(\$96,740,864)
Total Estimated Net Effect on General Revenue Fund	(\$83,682,414)	(\$94,338,185)	(\$96,740,864)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

*Income and costs of approximately \$75,000,000 would net to \$0.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Senate, Missouri House of Representatives, the Department of Health and Senior Services, the Office of Prosecution Services, the Department of Public Safety - Missouri State Highway Patrol, the Department of Mental Health, and Office of State Public Defender** state the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Attorney General** state costs can be absorbed.

Officials from the **Department of Social Services - Division of Family Services (DFS)** state Section 207.085 holds employees of the DFS and their supervisors civilly and criminally liable for any injury or damages as the result of negligence which violates any stated or written policy of the DFS, any rule promulgated by the DFS or any state law relating to the activities of the DFS. If the violation results in serious physical injury, the employee or supervisor can be charged with a class D felony. The DFS assumes since this language is located in Section 207, it would be applicable to Income Maintenance staff, as well as Children's Services. The DFS has calculated the costs for two of its sections, Income Maintenance (IM) and Children's Services (CS) separately.

ASSUMPTION (continued)

Income Maintenance

The DFS's IM section is currently staffed at 56.86% of need. As a result of the increased workload, staff may violate the DFS's policies and be held personally liable. The state may find itself subject to lawsuits as a result of the reduced level of staffing. Therefore it is anticipated that the DFS-IM would need to be at full staff as a result of this proposal.

Based on the recommendations of the DFS Caseload Standards Advisory Committee, established pursuant to SB 387, as of July 1, 2002 the division requires 3,385 caseworkers to be at full staff. Currently DFS is staffed at 52.68% of need at 1,783 caseworkers. Caseworker duties and responsibilities include take and process applications for eligibility, respond and answer both written and telephone requests for information or reported changes, and maintain all active cases in caseload. Annual salary for a Caseworker is \$29,040

$$3,385 - 1,783 = 1,602 \text{ additional caseworkers for full staffing}$$

As of July 1, 2002 the division requires 920 self-sufficiency case managers (SSCM) to be at full staff. Currently DFS is staffed at 72.24% of need at 664 SSCMs. SSCM duties and responsibilities include intensive case management, tracking participation, identifying barriers, monitoring progress and establishing eligibility for benefits. Annual salary for an SSCM is \$30,204.

$$920 - 664 = 256 \text{ additional SSCM for full staffing}$$

1,602	Total additional caseworkers
<u>+ 256</u>	Total additional SSCM
1,858	Total front-line staff

DFS would also require support staff to assist these additional front-line staff. The DFS states it would need 186 Supervisors I, 19 Supervisors III, 14 Training Technician I's, 3 Training Technician III's, 524 Office Support Assistant (keyboard), and 9 Senior Office Support Assistants (keyboard).

Equipment and Expenses (E & E)

One Time Costs: (For FY 2004): Office equipment for each 2,613 employee would cost \$8,785 per employee, or \$22,955,205.

ASSUMPTION (continued)

Total Annual Ongoing Costs: Ongoing costs of \$4,784 per employee would be \$12,500,592 per year for 2,613 employees.

The DFS estimates travel expenses to be \$923,450 per year.

Children's Services

The DFS states it is not possible to have enough workers and supervisors to be able to guarantee that 100% of all children in alternative placement will be safe. DFS assumes just to be able to comply with the legislation, the DFS would need to maintain staffing ratios based on the Council of Accreditation (COA) standards. DFS estimates it will need 729 FTE for workers and their related support staff.

The DFS states employees would need liability insurance. DFS states child welfare agencies across the country are having difficulty recruiting and retaining child welfare workers. The language in Section 207.085 could prove to be a huge disincentive to work in public child welfare in Missouri. DFS assumes it would provide the employee liability insurance. The DFS contacted another private child welfare agency and their yearly liability expense for 50 employees is \$61,000. The DFS has Children's Services and Income Maintenance employees, who would require liability insurance. The DFS assumes it would cost \$1,220 annually per employee or \$3,645,201 for 2,988 employees.

Officials from the Department of Social Services - Division of Family Services state section 210.112 would require the DFS to contract for services which are currently provided by DFS staff. A portion of these staff would need to remain to provide technical support and oversight of the contracted agencies. DFS staff would be required to train the contracted agencies on DFS policy and training would need to be provided on an on-going basis. DFS would need to monitor outcomes, evaluate the performance of each contracted agency, make payments and enter information into the DFS database for Federal reporting. The DFS assumes contracted agencies would not have access to the DFS database because of the cost of dial-up accessibility. In addition, since contracted agencies are not accountable for the DFS budget, DFS employees would need to authorize payment of services. In addition, DFS staff are federally mandated to sign each case plan. Therefore, DFS assumes the DFS staff would need to remain at the equivalent of 1 per every 7 contracted workers.

To calculate the fiscal impact of the pilot project, the cost savings from a decrease in DFS staff, including their expense and equipment expenses, was subtracted from the amount it

ASSUMPTION (continued)

will cost the DFS to contract for the child welfare services. The number of staff needed to perform case management functions was multiplied by \$30 per day, the 14 families they will carry at any given time, and the number of days in the year (365). The number of staff needed to provide intensive in-home services was multiplied by \$164 per day, the number of families they will serve annually, and the number of days in the year (365). The number of staff needed to provide Family Reunification services was multiplied by \$155 per day, the number of families they will serve annually, and the number of days in the year (365). The number of staff needed for each program is based on the Council on Accreditation standards, with the exception of case management. The current case management contracts allow contracted agencies to carry a caseload of 14 families which exceed the DOA standard of 12. It is also based on the number of families served during the previous state fiscal year. However, the families which were on a waiting list for Intensive in-home services during the previous state fiscal year were added to the proposed number of families that will be served during calendar year 2004 and 2005.

The DFS estimates case management contract costs to be \$18,646,704 in FY 04; \$38,542,530 in FY 05 and \$39,506,093 in FY 06.

After adding staff for full staffing (729) less staff reduction after the pilot project (259), the DFS will need 470 additional employees.

The DFS assumed the DFS staff which currently serve the Independent Living program would be replaced with contracted staff at comparable salaries.

The DFS assumes an independent evaluation would be required to provide an overall assessment of the quality of services and make a recommendation to the general assembly. The cost of \$30,000 was included and is comparable to previous evaluation of child welfare agencies.

The DFS states there is a sunset clause with an end date of December 31, 2005 which would require the DFS to provide services after that time. In order to handle the influx of work, the DFS would have to begin hiring staff months prior to the December 31 date to accomplish the training that would be required. Costs to the state are increased by letting trained staff go, training contracted staff and later training DFS staff, and paying for the staff of contracted agencies to attend training. The potential cost to children and families is a lack of continuity which naturally occurs during such a transition. These costs are not reflected in the note.

Oversight has, for fiscal note purposes only, changed the starting salary for all above mentioned Department of Social Services positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual

ASSUMPTION (continued)

starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials from the **Office of State Courts Administrator (CTS)** state that this proposal would make numerous changes in the laws relating to foster care, and create new responsibilities and time frames for the courts and court clerks.

The CTS does not know what the fiscal impact would be, but it could be substantial. The CTS states any significant increase in the workload of the CTS will be reflected in future budget requests.

Officials from the **Department of Elementary and Secondary Education (DES)** state the DES would object to being included in the requirement for monthly meetings but would assume no fiscal impact.

Officials from the **Office of the Secretary of State (SOS)** state this proposal creates various foster care changes. The Department of Social Services could promulgate rules to enact this legislation. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Social Services could require as many as 20 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$1,230 [(20 pp x \$27) + (30 pp x \$23)].

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Corrections (DOC)** state currently, the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY02 average of \$35.52 per inmate, per day or an annual cost of \$12,965 per inmate) or through supervision provided by the Board of Probation and Parole (FY02 average of \$3.10 per offender, per day or an annual cost of \$1,132 per offender).

The following factors contribute to DOC's minimal assumption: (1) DOC assumes the narrow scope of the crime will not encompass a large number of offenders, (2) The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence, and (3) The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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GENERAL REVENUE

Costs - Department of Social Services-
 Division of Family Services -IM

Personal Service (IM) (2,613 FTE)	(\$26,309,864)	(\$32,361,133)	(\$33,170,161)
Fringe benefits (IM)	(\$10,647,602)	(\$13,096,551)	(\$13,423,964)
Expense and equipment (IM)	<u>(\$18,189,624)</u>	<u>(\$6,913,382)</u>	<u>(\$7,120,783)</u>
<u>Total Costs - Department of Social Services - Division of Family Services - IM</u>	(\$55,147,090)	(\$52,371,066)	(\$53,714,908)

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<u>Costs - Department of Social Services- Division of Family Services -CS</u>			
Personal Service (CS) (470 FTE)	(\$6,734,061)	(\$8,282,896)	(\$8,489,968)
Fringe benefits (CS)	(\$2,725,275)	(\$3,352,088)	(\$3,435,890)
Expense and equipment (CS)	(\$6,842,747)	(\$4,435,503)	(\$4,556,050)
Contract costs	<u>(\$12,233,241)</u>	<u>(\$25,896,632)</u>	<u>(\$26,544,048)</u>
<u>Total Costs - Department of Social Services - Division of Family Services - CS</u>	(\$28,535,324)	(\$41,967,119)	(\$43,025,956)
ESTIMATED NET EFFECT TO GENERAL REVENUE	<u>(\$83,682,414)</u>	<u>(\$94,338,185)</u>	<u>(\$96,740,864)</u>
FEDERAL			
<u>Income - Department of Social Services - Division of Family Services</u>			
Federal Assistance - IM	\$55,147,090	\$52,371,066	\$53,714,908
Federal Assistance - CS	<u>\$14,571,169</u>	<u>\$21,656,423</u>	<u>\$22,202,656</u>
<u>Total Income - Department of Social Services - Division of Family Services</u>	\$69,718,259	\$74,027,489	\$75,917,564
<u>Costs - Department of Social Services- Division of Family Services -IM</u>			
Personal Service (IM) (2,613 FTE)	(\$26,309,864)	(\$32,361,133)	(\$33,170,161)
Fringe benefits (IM)	(\$10,647,602)	(\$13,096,551)	(\$13,423,964)
Expense and equipment (IM)	<u>(\$18,189,624)</u>	<u>(\$6,913,382)</u>	<u>(\$7,120,783)</u>
<u>Total Costs - Department of Social Services - Division of Family Services - IM</u>	(\$55,147,090)	(\$52,371,066)	(\$53,714,908)

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<u>Costs - Department of Social Services- Division of Family Services -CS</u>			
Personal Service (CS) (470 FTE)	(\$3,368,042)	(\$4,142,690)	(\$4,246,258)
Fringe benefits (CS)	(\$1,363,046)	(\$1,676,547)	(\$1,718,461)
Expense and equipment (CS)	(\$3,396,618)	(\$2,196,975)	(\$2,256,721)
Contract costs	<u>(\$6,443,463)</u>	<u>(\$13,640,211)</u>	<u>(\$13,981,216)</u>
<u>Total Costs - Department of Social Services - Division of Family Services - CS</u>	(\$14,571,169)	(\$21,656,423)	(\$22,202,656)
ESTIMATED NET EFFECT ON FEDERAL	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal makes numerous revisions to laws relating to foster care and protective services for children.

LIABILITY OF EMPLOYEES AND SUPERVISORS

The proposal subjects employees of the Division of Family Services who intentionally or with gross negligence violate division policy, division rules, or state laws dealing with the activities of the division, or supervisors who know or should know of such violation, to personal civil and criminal liability for injury or damage that arises as a result of a violation. If serious physical injury or death occurs as a result of a violation, the employee or supervisor is guilty of a class D felony.

DESCRIPTION (continued)

CHILD ABUSE AND NEGLECT RECORDS

The proposal requires records and reports of law enforcement agencies concerning child abuse and neglect to be kept separate from other records. It allows disclosure of these records to specified individuals and organizations, including members of the General Assembly under certain circumstances.

Currently, records of the division concerning reports of child abuse and neglect are available to specified individuals and organizations under certain circumstances. The proposal adds a requirement that records of the division concerning reports of child abuse and neglect be made available to specified committees of the House of Representatives and the Senate to carry out the member's or committee's official functions. The records may also be available to any member of the General Assembly if a child is placed in foster care and is the victim of a fatality or near fatality, a substantiated allegation of sexual or physical abuse, kidnaping, or is missing for 72 hours or more. The member of the General Assembly requesting records must file a written request with the director of the division and the Attorney General, and the records must be made available to the member within 72 hours of the filing of the request.

Information from reports and records concerning child abuse and neglect maintained by the division become public records when a child suffers life-threatening injury or death as a result of child abuse or neglect.

Currently, the division must retain identifying information from reports of child abuse and neglect made by a mandated reporter for a period of 10 years when there is insufficient evidence of abuse or neglect. The proposal reduces the length of time that the record must be kept to five years, and specifies that if no evidence of abuse or neglect is found, the division may not retain any identifying information. For reports of child abuse and neglect made by other reporters, the division will not retain identifying information if no evidence of abuse or neglect is found.

Currently, records of juvenile court proceedings may be disclosed to parents or persons with a legitimate interest in the child with a court order. The proposal makes these records available to the parents of the child and others with a legitimate interest in the child without a court order.

COURT PROCEEDINGS

This proposal requires guardians ad litem to be informed of and have the right to attend all meetings involving the child when they are appointed by the court. The judge making the appointment of guardian ad litem or a volunteer advocate also has the authority to examine the background of the guardian ad litem or volunteer advocate to ensure the safety of the children the guardian ad litem or volunteer advocate is appointed to represent. This proposal also requires the

DESCRIPTION (continued)

guardian ad litem to advocate for timely hearings whenever possible.

When the court finds that placement of a child with relatives is not in the best interests of the child, this proposal requires the court to make specific findings on the record as to why the best interests of the child mandate the child's placement with persons other than relatives.

Currently, the parents of a child under the age of 17 who is alleged to be in need of care and treatment and who is taken into custody must be notified of the right to a custody hearing, and any party may request that a protective custody hearing be held within three days of the request, but a protective custody hearing is not mandatory. This proposal requires an initial hearing to be held concerning the status of the child within three days of the child being taken into custody. Upon notification of the parties, the court must hold a protective custody hearing within 14 days of the child being taken into custody, and an additional hearing must be held within 60 days of the child being taken into custody to determine whether there is sufficient cause for the child to remain in the state's custody. If the court determines that sufficient cause exists, the court must continue to review reunification efforts every 90 to 120 days.

Currently, the general public is excluded from juvenile court proceedings, except in some cases in which a child is accused of an offense that would be considered a felony if committed by an adult. This proposal allows the general public to have access to all juvenile court proceedings, except when a child or victim is testifying, and except upon the exercise of discretion by the judge, who can exclude the general public for good cause. This proposal also prohibits the court from granting more than one continuance in a juvenile proceeding, unless there are compelling extenuating circumstances and the court makes written findings on the record detailing the reasons for granting another continuance.

CHILDREN'S SERVICES

This proposal requires the Department of Social Services to contract for the provision of services to children with private children's service providers and community agencies whenever possible.

This proposal requires the Division of Family Services to implement a two-year pilot project on or before January 1, 2004. This pilot project will be located in Greene County, the City of St. Louis, and one rural county to be determined by the division. In the pilot project locations, all direct services for children and families that are currently provided by the division will be provided by public and private children's service agencies and providers that have contracted with the division through a competitive bid process. This proposal specifies the criteria for the pilot project and the terms of children's services contracts entered into by the division for

DESCRIPTION (continued)

purposes of the pilot project. The division must submit a report to the General Assembly beginning January 15, 2005, and continuing each year that the pilot project is in operation. The report must include specified details about the pilot project, recommendations concerning the continuation or expansion of the project, and information relating to the provision of direct services for children and their families.

This proposal establishes the Child Protective Services Citizen Review Panel within the Department of Social Services, to provide independent review of policies and procedures of child protective services agencies and specific cases where appropriate, as well as to evaluate whether agencies are discharging their child protection responsibilities effectively. This proposal specifies the membership of the board and the terms of service. The panel must meet at least once every three months and must be provided access to information necessary to carry out its duties. The panel must also prepare an annual report summarizing its activities.

This proposal requires the department to submit an annual report to the Governor and the General Assembly beginning February 1, 2005. The report must include specified information about the previous calendar year concerning reports of abuse and neglect, services provided to parents, and the agency's response to reports of abuse and neglect.

MISCELLANEOUS PROVISIONS

This proposal prohibits the division from requiring individuals to sign a confidentiality agreement before testifying or providing information at a meeting or hearing held in relation to the removal of a child from the child's home. Individuals and the division may enter into confidentiality agreements by mutual consent.

This proposal requires the departments of Social Services, Mental Health, and Elementary and Secondary Education to hold monthly meetings to address and review actions taken by agency employees involving the provision of services to children.

This proposal requires the Division of Family Services to seek waivers from the Department of Health and Senior Services to enhance federal reimbursement for foster care and adoption assistance.

This proposal also requires the division to conduct a diligent search for the natural parent or parents of a child who is in the custody of the division and whose parent or parents are unknown. A "diligent search" is defined as attempts by the division to locate a natural parent beginning when the division becomes aware of the existence of the parent and continuing until the parent is

DESCRIPTION (continued)

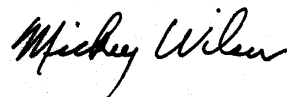
located or identified or the court excuses further search.

This proposal contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health and Senior Services
Missouri Senate
State Public Defender
Missouri House of Representatives
Secretary of State
Department of Corrections
Office of State Courts Administrator
Department of Mental Health
Department of Elementary and Secondary Education
Department of Public Safety -
 Missouri Highway Patrol
Attorney General Office
Office of Prosecution Services
Department of Social Services



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